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Director's Office
Group 3700

Paper No. 13

In re Application of
O'LEARY, DAVID
Appl No.: 09/888,199
Filed: June 23, 2001
For: RESERVOIR PRESSURE SYSTEM FOR
MEDICAMENT INHALER
Attorney Docket Number: NHC0031A-USA

DECISION GRANTING
PETITION
37 CFR 1.181

This application is before the Director of Technology Center 3700 for reconsideration of the Notice of Abandonment mailed June 2, 2003 for failure to timely reply to the office mailed August 13, 2002. In view of petitioner's comments in the paper submitted April 21, 2005, the request is treated as a petition to withdraw of the holding of abandonment pursuant to 37 CFR 1.181 based on non-receipt of the office action. No fee is required for this petition.

The petition is granted.

A review of the file history indicates that a Change of Correspondence Address was filed on July 2, 2002, but was not entered into the file until after the Office Action of August 13, 2002 was mailed. Therefore the office action in question was not mailed to the proper address of record. Also, in support of the request, petitioner has provided a showing of non-receipt of the Office action in accordance with MPEP 711.03(c)IA.

It is also noted that petitioner has submitted a copy of a petition filed under 37 CFR 1.137(b), an amendment, and a postcard receipt dated June 3, 2004. The original copy of this petition is not in the file and has not been decided. The petition under 37 CFR 1.137(b) is dismissed as moot in view of the present petition being granted.

In view of the above, the Notice of Abandonment mailed June 2, 2003 is hereby vacated and the holding of abandonment is withdrawn. Accordingly, it appears that petitioner is entitled to have the Office action of August 13, 2002 remailed. However, petitioner has obtained a copy of the office action and subsequently filed a response on June 3, 2004. Therefore, physical remailing of the office action is not necessary.

The application will be forwarded to the Technical Support Staff to have an entry in the PALM system made to show the office action of August 13, 2002 has been remailed prior to the response of June 3, 2004. The amendment of June 3, 2004 will be entered into the file and the application will then be forwarded to the examiner for action.



Richard A. Bertsch, Director
Technology Center 3700